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DEPARTMENT FOR S/WCI

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [KCRM](#) [RW](#) [KE](#)
SUBJECT: AMBASSADOR-AT-LARGE FOR WAR CRIMES URGES KENYA TO
END KABUGA'S IMPUNITY

REF: 06 NAIROBI 5301

Classified By: Poloff Melissa Sweeney for reasons 1.4 (b,d).

¶1. (C) Summary: Ambassador-at-Large for War Crimes Issues Clint Williamson met privately with GOK Ministers to push for Felicien Kabuga's apprehension and also met with various Chiefs of Mission to discuss further cooperative strategies on the issue. It is widely believed that Kabuga, ICTR fugitive and alleged financier of the Rwandan genocide, continues to remain at large within Kenya, likely enjoying protection from high-ranking former and current government officials. Despite some progress on improved information sharing and investigative cooperation between the GOK and the ICTR, there is little expectation that the GOK will take the necessary measures to bring Kabuga to justice any time soon. End Summary.

¶2. (C) Ambassador-at-Large for War Crimes Issues Clint Williamson, accompanied by Brendan Doherty, visited Nairobi March 14-15, 2007. His visit followed the creation in early February of the long-awaited (see reftel) GOK and International Criminal Tribunal for Rwanda (ICTR) Joint Task Force to investigate leads on Rwandan genocide indictee Felicien Kabuga's alleged presence in Kenya. The work and even the existence of this Joint Task Force is being kept low profile, even within the government of Kenya, in an attempt to avoid GOK interference with its investigations.

Deputy Foreign Minister: A Personal Stake, But...

¶3. (SBU) Deputy Minister of Foreign Affairs Moses Wetangula met with Ambassador Williamson on March 14. Williamson reaffirmed the USG's continued friendship with the GOK and noted its willingness, thus far, to primarily engage the GOK outside the public eye on this issue. However, he also reminded Wetangula of the approaching ICTR completion deadlines (2008 for trials, 2010 for appeals) and explained the mounting pressure within the U.N. to see the ICTR successfully meet these deadlines. He noted that Member State cooperation viz. ICTR fugitives would likely be a key topic at the ICTR's June report to the UNSC, and this could increase public and UNSC pressure on the GOK to act. Williamson explained that a key obstacle to the successful completion of the ICTR's mandate is the 18 fugitives still at large. Alleged genocidaire Felicien Kabuga, believed to be hiding in Kenya, tops this fugitive list. Ambassador Williamson noted that ICTR investigators have good reason to believe that Kabuga is present in Kenya. He encouraged the GOK to cooperate with the ICTR and to investigate and execute all possible leads.

¶4. (C) "I wish I knew where he is," Wetangula responded, "I would love to get him." Wetangula said he had "shared a

house" with Kagame in Kenya in his student days, was friends with many of the GOR's current Ministers, and had been a friend of some well-known genocide victims. He noted that Kabuga's wealth, his ability to "change his appearance," and the likelihood he owned multiple homes are all obstacles to his apprehension. Kabuga could skip across Kenya's porous borders if a search grew hot, he suggested. Wetangula also noted the USD 5 million Rewards for Justice offer for Kabuga's apprehension, stressing how much this would mean to the average Kenyan, but also recalled a brutal murder two years ago in Kenya likely intended to warn anyone against turning in Kabuga. Wetangula suggested that officials from Kenya's former government may have sheltered Kabuga, but doubted current officials were involved.

Security Minister: You Have No Proof, He's Not Here

15. (SBU) Ambassador Williamson secured a meeting with Minister for Internal Security and Provincial Administration John Michuki, whose ministry has direct responsibility for action on the GOK's obligation to arrest Kabuga. This meeting presented a unique opportunity to urge the GOK (through a senior Minister who has the President's ear) to improve its cooperation with the ICTR, particularly on this case.

16. (C) Ambassador Williamson, accompanied by Deputy Chief of Mission Pamela Slutz, reiterated that Kabuga's apprehension remains central to ICTR's successful completion and that there will likely be mounting pressure both publicly and within the UNSC for the GOK to act. Michuki acknowledged that bringing Kabuga to justice would send the proper signal to would-be wrong-doers. However, he then attempted to avoid the issue by speaking at length on the need for general

conflict prevention, particularly in Somalia.

17. (C) After Williamson's redirection, Michuki denied Kabuga's presence in Kenya and challenged the ICTR to produce concrete evidence to the contrary. He assured Williamson that Kabuga could not be in Kenya without the GOK knowing about it, and "guaranteed" that the GOK would catch him if he were. He said if the GOK wants to arrest someone, no one can hide in Kenya. (Note: This last statement confirms the USG belief that Kabuga's apprehension in Kenya is primarily an issue of will, not capacity. Also, during the conversation Michuki mentioned that he "knew" Kabuga and had hosted Kabuga in Nairobi in 1987, after meeting him in Rwanda the year before when Michuki's sister-in-law was serving as the Kenyan Ambassador. End Note.) Michuki expressed grave "disappointment" that the ICTR continues to make such allegations but fails to offer Kenya any proof of Kabuga's whereabouts. Williamson said he would pass this message on to ICTR Chief Prosecutor Hassan Jallow. Michuki even implied that the ICTR, and Jallow in particular, targets these allegations at Kenya only to justify renewing the Prosecutor's employment contract.

Diplomatic Support, Anecdotes, Views

18. (SBU) During meetings with several heads of diplomatic missions in Nairobi, Ambassador Williamson heard a common refrain of support for the ICTR and efforts to pressure the GOK for greater cooperation with the Tribunal. Ambassador Williamson met with the Dutch, German, and Norwegian Ambassadors and the Acting British High Commissioner to strategize on how best to pressure the GOK. There was general agreement that Kabuga enjoys the protection of influential individuals in Kenya and that this remains a significant obstacle to Kabuga's arrest. Dutch Ambassador Laetitia van den Assum said Michuki is believed to know where Kabuga is. Frustrated by the GOK's lackluster response to diplomatic pressure, she suggested the time may come for a "not so gentle approach," meaning one that is more public and robust. She also said Fonmin Tuju told an EU delegation that "there is no official decision to shelter Kabuga," adding

that he did not know Kabuga's whereabouts. Tuju became extremely angry when the Greek Ambassador accused him of knowing who the business people are who shelter Kabuga, she added. Ambassador van den Assum stressed that the current government "protects Moi" (and by extension those close to Moi, such as Kabuga).

¶9. (SBU) Norwegian Ambassador Elisabeth Jacobsen advocated continued pressure on the GOK to honor its international obligations to arrest Kabuga and queried what role local media should play in raising awareness and mounting pressure on the GOK. Ambassador Williamson encouraged the missions to raise this issue with the GOK whenever the opportunity presented itself. UK Acting High Commissioner Ray Kyles suggested that former President Moi's son Gideon likely knows where Kabuga is, and that Gideon Moi's enemies might want to embarrass him. German Ambassador Walter Lindner was strongly supportive, but feared that without concrete intelligence it would be difficult to exert sufficient pressure on the GOK. As the representative of the current EU presidency, he promised to raise the issue with Wetangula at a planned meeting the next day and at future meetings. Several Ambassadors mentioned the GOK's concern not to be embarrassed in an election year on the subject. (Note: Diplomatic pressure on the GOK concerning Kabuga will continue to be coordinated within the Like-Minded Donors group and the Friends of the ICTR. End Note.)

¶10. (C) COMMENT: Despite the progress at the working level and information sharing between ICTR and GOK investigators in the Joint Task Force, without the necessary political will to bring an end to Kabuga's safe haven in Kenya there is scant chance of his being arrested here. In this election year, it is even less likely that the GOK will take any significant action against him. President Kibaki recently allied himself with Moi to win Rift Valley votes in the upcoming national elections, expected in December. President Kibaki will not risk alienating a useful ally by disrupting a significant financial interest. Kabuga could also be valuable to the current regime as a source of campaign finance in a tight election race. Fear of what Kabuga might say in an ICTR trial may also inhibit GOK action. Conceivably, a re-elected and term-limited Kibaki may feel less beholden to Kabuga and his protectors, or a victorious opposition candidate might have less interest in sheltering Kabuga. We will continue to coordinate our diplomatic efforts with other concerned diplomatic missions to encourage the GOK to honor its international obligations.

¶11. (U) Ambassador Williamson has reviewed this cable.
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